EXHIBIT 12

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

1   UNITED STATES DISTRICT COURT

2   NORTHERN DISTRICT OF CALIFORNIA

3   SAN FRANCISCO DIVISION

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5   _____

6   ORACLE AMERICA, INC.,   )

7   Plaintiff,   )

8   vs.   ) No. CV 10-03561 WHA

9   GOOGLE, INC.,   )

10   Defendant.   )

11   _____)

12

13   HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

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15   Videotaped Deposition of ANDREW MCFADDEN,

16   taken at 333 Twin Dolphin Drive, Suite 400,

17   Redwood Shores, California, commencing at

18   9:33 a.m., Wednesday, May 4, 2011, before

19   Leslie Rockwood, RPR, CSR No. 3462.

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 1  Dalvik byte codes?
 2       A. No.
 3       Q. So what kind of development was being done on
 4  the JamVM?
 5       A. We were writing code in the Java programming     10:26:50
 6  language.
 7       Q. To do what?
 8       A. It was the application -- Android application
 9  framework and some Android applications.
10       Q. Why were you working with a Java Virtual         10:27:16
11  Machine instead of Dalvik?
12       A. Because Dalvik didn't exist yet.
13       Q. Was it -- did you ultimately abandon JamVM?
14       A. Yes.
15       Q. Why?                                             10:27:48
16       A. We abandoned it at the point where Dalvik had
17  an equivalent feature set and better performance.
18       Q. Where does -- where did JamVM come from?
19       A. It is an open source project.
20       Q. So it's a freely available Java Virtual          10:28:07
21  Machine?
22       A. Yes.
23       Q. Does it come with a set of class libraries?
24       A. It does not.
25       Q. Did you get a set of Java class libraries to     10:28:19
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 1  use with JamVM?
 2       A. We initially used the GNU Classpaths
 3  libraries. After a short period, maybe a week or two, we
 4  decided that wasn't going to work, threw them away, and
 5  started writing our own.                                 10:28:40
 6       Q. So why was a GNU Classpath not good for your
 7  purposes?
 8       A. It was not designed to work well on embedded
 9  systems.
10       Q. What were the -- what were its disadvantages     10:29:07
11  that prevented it from working well on embedded systems?
12       A. It was fairly careless with memory and was
13  just generally large and slow.
14       Q. So what did the Android group replace the GNU
15  Classpath libraries with?                                10:29:30
16       A. We started writing our own.
17       Q. Who wrote those class libraries for Android?
18       A. Anyone and everyone.
19       Q. Were their particular Java packages that
20  had -- that were a focus of Android's work?              10:29:56
21       A. The only real focus that I can recall was
22  whatever we needed we built.
23       Q. Were the Android class libraries written
24  entirely by Google employees?
25       A. I believe so.                                    10:30:19
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 1       Q. How long did it take to write the class
 2  libraries?
 3       A. It was a -- it was an ongoing project. When
 4  something was needed, the person who needed it would
 5  write it, but it wasn't an end onto itself.              10:30:44
 6       Q. When did the -- when did the project of
 7  writing the Java class libraries for Android begin?
 8       A. I don't remember exactly.
 9       Q. Was it in late 2005, early 2006?
10       A. It would have been somewhere in the late         10:31:13
11  2005, early 2006 time frame.
12       Q. When was the project of writing the Java
13  class libraries finished?
14       A. It was eventually replaced with the Apache
15  Harmony libraries.                                       10:31:32
16       Q. When did that replacement happen?
17       A. I don't recall.
18       Q. Why were they replaced?
19       A. The Harmony implementation was more complete.
20       Q. When working on Google's own version of the      10:32:05
21  class libraries, those were never released as part of a
22  commercial product, were they?
23       A. I believe there are bits and pieces of the
24  original work that live on. These would be some very
25  restricted bits, restricted in scope. The majority of    10:32:35
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 1  the code ceased to exist when Harmony was brought in, but
 2  there may be some bits and pieces that made it into the
 3  commercial product.
 4       Q. But the bulk of that work was not made part
 5  of the Android commercial products?                      10:33:03
 6       A. Correct.
 7       Q. I'd like to know more about the development
 8  of those Google Java core libraries. Was there any
 9  thought of improving or starting from a GNU Classpath or
10  other libraries, open source libraries?                  10:33:30
11          MR. WEINGAERTNER: Objection to form.
12          THE WITNESS: Starting from GNU Classpath was
13  perceived as a non-starter because of the GPL licensing.
14  We wanted libraries that were using a license like BSD,
15  MIT, Apache 2.                                           10:33:55
16       Q. BY DR. PETERS: Why was the licensing
17  important to Google?
18       A. I wasn't close enough to the licensing
19  discussions to really speak to it with any authority.
20       Q. Why do you think the licensing of the Java       10:34:16
21  class libraries was important?
22          MR. WEINGAERTNER: Objection to form.
23          THE WITNESS: There are some licenses
24  essentially come with strings attached and it is hard to
25  have -- we wanted to build this and have lots of people   10:34:41
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